

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION**

**RICHARD R. COTA,**

**Plaintiff,**

**v.**

**PILKINGTON NORTH AMERICA, INC.,**

**Defendant.**

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**CAUSE NO. 1:12-CV-365**

**OPINION AND ORDER**

This case was removed to this Court from the Allen Superior Court by Defendant based on diversity jurisdiction pursuant to 28 U.S.C. § 1332(a). (Docket # 2.) Upon review of the record, the Court has discovered inadequacies in the Notice of Removal, which alleges that “[u]pon information and belief, Plaintiff is an Indiana resident.” (Notice of Removal ¶ 7.)

Defendant’s Notice of Removal is inadequate for two reasons. First, it is well-settled that “[a]llegations of federal subject matter jurisdiction may not be made on the basis of information and belief, only personal knowledge.” *Yount v. Shashek*, No. Civ. 06-753-GPM, 2006 WL 4017975, at \*10 n.1 (S.D. Ill. Dec. 7, 2006) (citing *Am.’s Best Inns, Inc. v. Best Inns of Abilene, L.P.*, 980 F.2d 1072, 1074 (7th Cir. 1992)); *Ferolie Corp. v. Advantage Sales & Mktg., LLC*, No. 04 C 5425, 2004 WL 2433114, at \*1 (N.D. Ill. Oct. 28, 2004); *Hayes v. Bass Pro Outdoor World, LLC*, No. 02 C 9106, 2003 WL 187411, at \*2 (N.D. Ill. Jan. 21, 2003); *Multi-M Int’l, Inc. v. Paige Med. Supply Co., Inc.*, 142 F.R.D. 150, 152 (N.D. Ill. 1992). Consequently, Defendant must amend its Notice of Removal to allege Plaintiff’s citizenship on personal knowledge rather than on information and belief.

The Notice of Removal is also insufficient because the “residency” of each party is meaningless for purposes of diversity jurisdiction, as “citizenship is what matters.” *Guar. Nat’l Title Co. v. J.E.G. Assocs.*, 101 F.3d 57, 58-59 (7th Cir. 1996) (explaining that statements concerning a party’s “residency” are not proper allegations of citizenship as required by 28 U.S.C. § 1332); *see* 28 U.S.C. § 1332. “It is well-settled that when the parties allege residence but not citizenship, the court must dismiss the suit.” *Held v. Held*, 137 F.3d 998, 1000 (7th Cir. 1998) (internal quotation marks and citation omitted); *see generally Smoot v. Mazda Motors of Am., Inc.*, 469 F.3d 675, 677-78 (7th Cir. 2006). As to Plaintiff Richard Cota, “[f]or natural persons, state citizenship is determined by one’s domicile.” *Dausch v. Rykse*, 9 F.3d 1244, 1245 (7th Cir. 1993); *see also Heinen v. Northrop Grumman Corp.*, 671 F.3d 669, 670 (7th Cir. 2012) (“But residence may or may not demonstrate citizenship, which depends on domicile—that is to say, the state in which a person intends to live over the long run.”); *Am.’s Best Inns, Inc.*, 980 F.2d at 1074 (“In federal law citizenship means domicile, not residence.”). As such, the Court must be advised of Plaintiff Richard Cota’s *citizenship*, which is determined by his domicile, rather than his residency.

Therefore, Defendant is ORDERED to supplement the record by filing an Amended Notice of Removal on or before May 2, 2013, properly alleging on personal knowledge the citizenship of Plaintiff Richard Cota.

SO ORDERED.

Enter for this 18th day of April, 2013.

/S/ Roger B. Cosbey  
Roger B. Cosbey,  
United States Magistrate Judge